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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,723	02/04/2004	Gerhard Gumpoltsberger	ZAHFRI P601US	4125
20210	7590	01/09/2006	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			PANG, ROGER L	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/771,723	Applicant(s) GUMPOLTSBERGER, GERHARD	
	Examiner Roger L. Pang	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-66 is/are pending in the application.
- 4a) Of the above claim(s) 40,44,48 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,35,38,39,41-43,45,49-57 and 59-66 is/are rejected.
- 7) ☒ Claim(s) 36,37,46 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-4-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following action is in response to communications filed for application 10/771,723 on November 28, 2005.

Election/Restrictions

Claims 40, 44, 48, and 58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 28, 2005.

Applicant argues that the election was improper due to the generic claim being allowable. Since this has not been proven, and applicant discloses and claims 2 distinct species, the election is deemed proper, and applicant's arguments are not persuasive.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations in claims 57, and 59-66 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

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be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: page 11 (part numbers) needs to be deleted.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitations of claims 57, and 59-66 need to be included in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38, 39, 41, 42, 43, 45, 51, 53, 54, 55, and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 38, on lines 3-4, the limitations of "first and second countershafts" should be replaced with --said first and second

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countershafts--. With regard to claim 39, it is unclear how the fifth gear is the same as the first gear. With regard to claims 41, "first and second countershafts" should be replaced with --said first and second countershafts--. With regard to claim 42, applicant needs to be consistent with referencing previously claimed limitations. In this particular claim, "an input shaft", both countershafts, and the differential were all previously claimed in claim 34. They need not, and should not be reintroduced. With regard to claim 43, "output gear wheels" should be replaced with --said output gear wheels--. With regard to claim 45, the problem with this claim occurs many times within the dependent claims. Since applicant has already claimed the two input shafts, applicant must reference these. So, if one of them is "an outer input shaft" then applicant should reference that by claiming --the input shaft that is formed as an outer input shaft--. With regard to claim 51, the limitation of "the transmission housing" lacks antecedent basis. With regard to claim 53, the problem with referencing "a first clutch" occurs again. With regard to claim 54, see previous rejection of claim 53, but with the second clutch. With regard to claim 55, the problem with "preferably" occurs again. With regard to claim 57, the limitation of "preferably one hydrodynamic torque converter" is not a positively claimed limitation. If applicant wishes to claim the T/C, applicant should replace "a separate starting element" with --a hydrodynamic torque converter--. With regard to claim 62, it is unclear what the claim is claiming.

Please Note: There were many 35 USC 112, second paragraph problems with the claims, some that might not have been caught. It is suggested that applicant carefully review all the claims (including the non-elected claims) and amend to correct such problems.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34-35, 41, 43, 45, 49, 50, 51, 52, 54, 55, 56, 64, 65, and 66 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinzl '407. With regard to claim 34, Heinzl teaches a dual-clutch transmission having at least six gears, the dual-clutch transmission comprising: two clutches K1,K2, and input side of which are connected with a drive shaft 10 of a prime mover and an output side of which are connected with each of two input shafts 12,14 disposed coaxially to each other; first and second countershafts 16,18 upon which are rotatably supported gear wheels 42,50 designed as idler wheels; gear wheels non-rotatably situated upon said two input shafts and designed as fixed wheels 34, 38 which are in tooth contact with said idler wheels; coupling devices 51,54 non-rotatably and axially movably supported upon said first and second countershafts and movable by setting devices, and fastened respectively on said first and second countershafts output gear wheels 84,102 which are in tooth contact with an output toothing 96 on a differential transmission 20, wherein a first and second fixed wheels 34,66 are situated upon an input shaft and at least one other fixed wheel 38 is situated upon the other input shaft for respectively driving two idler wheels 42,50; 104,106; 56,54 (Fig. 2). With regard to claim 35, Heinzl teaches the transmission, wherein the first and second fixed wheels 34,66 are fastened on said input shaft 14 designed as a hollow shaft while the at least one other fixed wheel 38 sits

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upon said second input shaft 12 designed as a solid shaft. With regard to claim 41, Heinzl teaches the transmission, wherein said first and second countershafts are disposed paraxially or forming an angle with said two input shafts (Fig. 2). With regard to claim 43, Heinzl teaches the transmission, wherein the output gear wheels 94, 402 are situated on ends of said first and second countershafts pointing to said two clutches (Fig. 2). With regard to claim 45, Heinzl teaches the transmission, wherein one of linear gears or non-linear gears are driven by the input shaft that is an outer input shaft 14 designed as a hollow shaft. With regard to claim 49, Heinzl teaches the transmission, wherein the coupling devices S1... are designed as positive fit dog clutches or as shifting sets. With regard to claim 50, Heinzl teaches the transmission, wherein each one of said coupling devices S1... comprise a sliding sleeve axially movable upon the respective first and second countershafts but non-rotatably connected therewith and synchronizer rings disposed to the right and left thereof. With regard to claim 51, Heinzl teaches the transmission wherein idler gear wheels of a first gear, of a second gear and of a reverse gear are situated in an area of front sides of a transmission housing (Fig. 2). With regard to claim 52, Heinzl teaches the transmission, wherein gear wheels of a first gear, of a second gear and a reverse gear are located in a central area of the transmission (Fig. 2). With regard to claim 54, Heinzl teaches the transmission, wherein the second clutch K2 farther removed from the prime mover is provided as a starting clutch for a reverse gear R. With regard to claim 55, Heinzl teaches the transmission, wherein the two clutches are designed as power-shift clutches. With regard to claim 56, Heinzl teaches the transmission wherein the two clutches are situated paraxially or coaxially with each other (Fig. 2). With regard to claim 64, Heinzl teaches the transmission wherein the differential 20 is designed as a power-divider differential transmission

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or as a length-divider differential transmission. With regard to claim 65, Heinzl teaches the transmission, wherein the setting device for actuating said coupling devices *can be* actuated manually or with servo assistance. With regard to claim 66, Heinzl teaches the transmission, wherein the setting devices *actuatable* with servo assistance have piston-cylinder systems *actuatable* by a hydraulic or pneumatic pressure medium.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzl. Since applicant has not disclosed how or where the auxiliary systems are driven via gears, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Heinzl to employ various power-take off gears and devices (including retarders) in order to provide a means to drive said devices.

Allowable Subject Matter

Claims 36-37, and 46-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 38-39, 42, 53, and 57 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pels, Rundle and Bowen have been cited to show similar PTO arrangements.

Berger, Sperber, Nellums, Akashi, Schreiner, and Hirt have been cited to show similar transmissions.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

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Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on _____ (Date)

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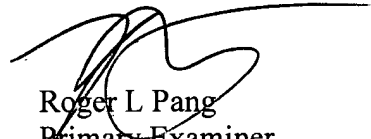
If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roger L Pang
Primary Examiner
Art Unit 3681

January 4, 2006